

ARIZONA HAZARDOUS WASTE FACILITY SITING PROVISIONS

Topics

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Relevant Statutes and Regulations:

- G Arizona Laws Relating to Environmental Quality, Title 49, Chapter 5, Articles 1, 2, and 3. 1996 Edition, Department of Environmental Quality.
- G Arizona Administrative Code, Department of Environmental Quality, Title 18, Chapter 8, Article 2. Effective July 24, 1984.
- G <http://www.adeq.state.az.us/stat.htm> contains rules and statutes

Other Relevant State Documents:

- G None.

Web Address for the State Environmental Agency:

- G <http://www.adeq.state.az.us/index.htm> has a link to agency contacts who can assist in determining the current siting requirements

Affected Facilities:

- G** Hazardous waste disposal facility [49-901(2)].
- G** Hazardous waste management facility (R18-8-260.F.3)

Definitions of Facility Types:

- G** A "hazardous waste disposal facility" is defined as a hazardous waste disposal facility contracted for or operated by the State of Arizona [49-901(2)].
- G** A "hazardous waste management facility" or "facility" means all contiguous land, structures, appurtenances, and improvements on the land which are used for treating, storing or disposing of hazardous waste that is subject to regulations under the HWMA program. A facility may consist of several treatment, storage, or disposal operations units (for example, one or more landfills, surface impoundments, or combinations of them). [R18-8-260.F.3]

Topic	Stage ¹	State citation ²	Provision
ADMINISTRATION			
STATE ADMINISTERING AGENCY			
Director of the Department of Environmental Quality--siting duties for facilities owned by the State	PPA PA PDP	<i>[49-902(A)-(E)]</i> R18-8-269	<p>In relation to the siting of hazardous waste disposal facilities owned by the State, the Director of the Department of Environmental Quality (Director) has the following duties:</p> <ul style="list-style-type: none"> • Acquire clear title in the name of the State of Arizona to a site consisting of one square mile located in Maricopa county with the legal description of section 32, township 4 south, range 1 west, Gila and Salt river base and meridian for a hazardous waste disposal facility for the disposal, storage, recovery and treatment of hazardous waste; • Lease in the name of the State of Arizona a buffer zone consisting of at least one-half mile surrounding the acquired site; • Obtain public easements as necessary for ingress or egress to the acquired site; and • Obtain lands to fulfill the aforementioned duties by purchase, lease, grant, condemnation or other lawful means. • Observe specific siting criteria applicable to the State hazardous waste facility mentioned above.

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Director of the Department of Environmental Quality--overall duties in relation to facilities owned by the State or a political subdivision	PPA PA PDP	<i>[49-922(B)(4)]</i>	The Director is responsible for establishing rules and standards for the operation, maintenance, location, design and construction of hazardous waste treatment, storage or disposal facilities owned by the State or a political subdivision . The Director is also responsible for requiring a permit for a hazardous waste treatment, storage or disposal facility including the modification and termination of permits, the authority to continue activities and permits existing on July 27, 1983 consistent with the Federal hazardous waste regulations, and the payment of a reasonable application fee.
Director of the Department of Environmental Quality--siting duties for privately owned facilities and for facilities owned by the State or a political subdivision	PDP	R18-8-271	For all facilities , the State of Arizona incorporates 124.10(c)(1)(ii), (iii), (x)(B) by reference, which requires the Director to provide public notification by mail, for permit denials, draft permits, hearings and appeals.

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Topic	Stage ¹	State citation ²	Provision
Director of the Department of Administration - duties relative to facilities owned by the State or a political subdivision	PA PDP	<i>[49-902(F); 49-903(A); 49-904 (B)(1)&(2)]</i>	<p>In relation to hazardous waste management facility siting for facilities owned by the State or a political subdivision, the Director of the Department of Administration performs the following:</p> <ul style="list-style-type: none"> • Duties relating to the administration of a lease and management of any contract with a person who has contracted for a hazardous waste disposal facility pursuant to section 49-903 (Arizona State Statutes regarding the development of a facility). • Contracting with one or more persons for the development of a hazardous waste disposal facility. The contractor developing the facility is solely responsible for compliance with all Federal, state, and local environmental laws, ordinances and rules. In no event shall the Director of the Department of Administration be responsible for such compliance. • Reimbursing a contractor for the costs of site acquisition, design, financing and construction of a hazardous waste disposal facility, and paying a contractor for operating the facility.

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THE INTERAGENCY COORDINATING COUNCIL			
No provisions found.			
INDEPENDENT SITING BOARD			
No provisions found.			

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LOCAL COMMUNITY NEEDS AND INVOLVEMENT			
LOCAL REVIEW/INVOLVEMENT			
Agency or political subdivision of the state gives notice & holds hearings for facilities that will be owned by the State or a political subdivision	PPA PDP	<i>[49-941]</i>	Any agency or political subdivision of the state which is required to select or permit a possible permanent site for any facility designed to permanently store, treat or dispose of any hazardous waste shall notify in writing, certain specified property owners of the possible sites.
	PPA	<i>[49-942]</i>	<u>Pre-permit hearing.</u> Before a political subdivision makes a final decision on a possible site for a facility, it shall hold a public hearing. The political subdivision is responsible for notifying the public of the hearing. The notification shall include: <ul style="list-style-type: none"> • Publication of notice in a daily or weekly newspaper of general circulation in the area of the proposed permanent site published once each week, beginning at least two weeks before the hearing; and • Mailed notice as provided in 49-941, sent at least two weeks before the hearing.
	PDP	<i>[49-943]</i>	<u>Post-permit hearing.</u> Before any agency grants a final permit for a facility, that agency shall: <ul style="list-style-type: none"> • If the applicant is a political subdivision, require the applicant to certify that a public hearing concerning a possible permanent site selection for the facility has been held in the nearest public facility in the general vicinity of the proposed permanent site, at which interested persons were allowed to appear and present their views.

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Agency or political subdivision of the state gives notice & holds hearings for facilities that will be owned by the State or a political subdivision	PPA PDP	<i>[49-944]</i>	<ul style="list-style-type: none"> At least 30 days before a final decision concerning the permanent site, hold a public hearing if such a hearing is warranted by the public interest. The hearing should be held in the nearest public facility in the general vicinity of the proposed permanent site, at which interested persons may appear and present their views. If such a hearing is held the agency shall send a written notice of the selection of the possible permanent site as provided in 49-941. (The state is said to exempt any facility which receives funding under section 201 of the Federal Clean Water Act as amended, is exempted from the notification and public hearing provisions.
County assessor and the department of revenue furnish a list of property owners to the State or political subdivision involved in siting a facility	PPA	<i>[49-941(B)]</i>	The county assessor and the department of revenue shall furnish a list of real property owners in certain specified areas around the proposed permanent facility to the agency or political subdivision which is required to select or permit a facility. This list shall be furnished within 15 days of its request.

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OTHER AGENCY OR GOVERNMENTAL ENTITY INVOLVEMENT			
No specific provisions found.			
COMPATIBILITY OF FACILITY SITE WITH LOCAL SOLID WASTE MANAGEMENT PLANS			
Facility development contractor shall comply with all local environmental laws	PDP	<i>[49-903(A)]</i>	The contractor developing the hazardous waste facility for the State or political subdivision is solely responsible for compliance with all Federal, state and local environmental laws, ordinances and rules.
IMPACT OF FACILITY ON LOCAL LAND USE			
No provisions found.			

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PUBLIC PARTICIPATION			
<p>The federal regulations regarding the public participation process for the permitting of hazardous waste (RCRA) facilities can be viewed at http://earth1.epa.gov/epacfr40/chapt-I.info/subch-D/40P0124.pdf within the Part 124 Procedures for Decisionmaking. (State regulations cannot be less stringent than the federal counterparts.)</p>			
NOTIFICATION			
Notice of State or political subdivision site selection to property owners	PPA	<i>[49-941, 49-944]</i>	<p>Written notice of the selection of the possible permanent sites by first class mail to property owners shall be given by any agency or political subdivision which is required to select or permit a possible permanent site for any facility designed to permanently store, treat or dispose of any hazardous waste. Notice shall be sent to property owners in the following areas:</p> <ul style="list-style-type: none"> • If the proposed permanent site is in an unincorporated area, within a three mile radius of the outer boundaries of the proposed permanent site unless the three mile radius intersects a municipal corporate boundary. In such a case, property owners inside the municipal corporate boundary within three hundred feet of the outer boundary of the proposed site shall be notified as well as those property owners outside the municipal corporate boundary within the three mile radius of the outer boundary of the proposed permanent site. • If the proposed permanent site is in an incorporated area, within a three hundred foot radius of the outer boundaries of the proposed permanent site.

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Notice of State or political subdivision site selection to property owners	PPA	[49-941, 49-944]	<p>Written notice shall be mailed to each owner of real property as shown on the list of property owners furnished by the county assessor and the department of revenue.</p> <p>Within 15 days after a request for a property owner list, the county assessor and the department of revenue shall furnish to the agency or political subdivision a written list stating the name and address of each owner in the two areas described above.</p> <p><u>Exemption</u> Any facility which receives funding under section 201 of the Federal Clean Water Act as amended, is exempted from the notification provisions and public hearing provisions. [assumed to solely apply to the Clean Water Act requirements]</p>
Notice of public hearing for facilities owned by the State or a political subdivision --pre-site selection	PPA	[49-942]	<p>A public hearing shall be held before a political subdivision makes a final decision on a possible site for a facility. The political subdivision is responsible for notifying the public of the hearing. The notification shall include:</p> <ul style="list-style-type: none"> • Publication of notice in a daily or weekly newspaper of general circulation in the area of the proposed permanent site published once each week, beginning at least two weeks before the hearing; and • Mailed notice as provided in 49-941, sent at least two weeks before the hearing.

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Notice of possible State or political subdivision facility site selection--post-permit	PDP	<i>[49-943]</i>	The agency shall send written notice of the selection of the possible permanent site to property owners as provided in 49-941, if a pre-final permit public hearing is held.
Notice of public hearing and draft permit for private facilities and for facilities owned by the State or a political subdivision	PPA	R18-8-271.I	For all facilities , the State has most of the same public notice requirements as the Federal regulations. However, they do not have an analog to 40 CFR 124.10(a)(1)(iv) which requires the Director to give public notice if an appeal has been granted. Arizona also has more stringent radio broadcast public notification requirements (R18-8-271.I.c.2.iii) which require a radio announcement broadcast over two local radio stations going out to the affected area at least once during the two week period prior to the post-permit public hearing.
Notice of public meeting, Pre-application	PPA	[R18-8-271.R]	<ul style="list-style-type: none"> The applicant must provide written notice to the permitting agency and to the appropriate units of State and local government, describing the purpose and scope of the public meeting. The applicant must provide a newspaper notice, at least 30 days before the pre-application public meeting, describing the purpose and scope of the public meeting. At least once before the public meeting, the applicant must provide a broadcast notice in at least one radio station or one television station. The broadcast notice must describe the purpose and scope of the public meeting. The applicant must post a visible and accessible sign that describes the purpose and scope of the public meeting.

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Notification of receipt of permit application	PA	[49-111] [R18-8-271.S]	<p>For any application for permit or significant modification to a permit, the Director must notify the following by sending a notice describing the purpose and scope of the proposed facility:</p> <ul style="list-style-type: none"> • Members of the public who have requested that they be on ADEQ mailing lists • Appropriate city, county, or town authorities • All State Agencies with regulatory authority over the facility.

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PUBLIC MEETING			
Pre-application public meeting	PPA	[49-111]	For any new permit or significant change to a permit, the applicant must hold a public meeting in order to solicit questions from the community and inform the community of proposed hazardous waste management activities.
PUBLIC HEARINGS			
Pre-site selection public hearing for facilities owned by the State or a political subdivision	PPA	[49-942]	A public hearing shall be held in the nearest public facility in the general vicinity of the proposed permanent sites, at which interested persons may appear and present their views. The hearing(s) is to be held before a political subdivision makes a final decision on a possible permanent site.
Post-permit public hearing for facilities owned by the State or a political subdivision	PDP	[49-943]	<p>Before any agency grants a final permit for a facility, that agency shall:</p> <ul style="list-style-type: none"> • If the applicant is a political subdivision, require the applicant to certify that a public hearing concerning a possible permanent site selection for the facility has been held, as described in the preceding paragraph. • At least 30 days before a final decision concerning the permanent site, hold a public hearing if such a hearing is warranted by the public interest. The hearing should be held in the nearest public facility in the general vicinity of the proposed permanent site, at which interested persons may appear and present their views. If such a hearing is held the agency shall send a written notice of the selection of the possible permanent site as provided in 49-941 (see the notification section).

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Public hearing and comment for draft permit for privately owned facilities and for facilities owned by the State or a political subdivision	PPA	R18-8-271.J&.K	For all facilities , the State has the same public hearing requirements as are found at 40 CFR 124.11, 124.12 and 124.14.
ADJUDICATORY HEARINGS			
No provisions found.			
OTHER			
No provisions found.			

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SITING RESTRICTIONS AND PROHIBITIONS			
Federal siting restrictions and prohibitions can be viewed at http://www.epa.gov/epacfr40/chapt-I.info/subch-I/ by selecting “Part 264 (Updated 1997) - Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”. The regulatory requirements are in Location Standards at 264.18 in the document. (State regulations cannot be less stringent than the federal counterparts.)			
SOIL AND WATER			
Restrictions for high groundwater areas for the proposed State site	PDP ³	[49-902 E 3]	No new hazardous waste disposal facility may be located within an area where up to one mile from the perimeter of the site the depth to groundwater level is less than 150 feet.
Restrictions for areas with incompatible hydrology and geology at the proposed State site	PDP ³	[49-902 E 5]	No new hazardous waste disposal facility may be located within an area where the hydrology and geology are incompatible with such use.
Restrictions for areas with subsidence at the proposed State site	PDP ³	[49-902 E 6]	No new hazardous waste disposal facility may be located within an area where subsidence has occurred or is likely to occur.
SEISMIC CONSIDERATIONS			
Placement near fault restricted for private facilities and for facilities owned by the State or a political subdivision	PA	R18-8-264	Arizona incorporates 40 CFR 264.18(a)(1) by reference which restricts the placement of new hazardous waste facilities near faults.

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FLOODING AND EROSION			
Floodplain restriction for facilities at the proposed State site	PDP ³	<i>[49-902 E 1, 48-3601]</i>	No new hazardous waste disposal facility at the proposed State site may be located within a one hundred year floodplain as defined in 48-3601. (A "one hundred year flood" means a flood that has a one percent chance of being equaled or exceeded in a one year period, based on the criteria established by the director of water resources. A "floodplain" means the area adjoining the channel of a watercourse including areas where drainage is or may be restricted by man-made structures which have been or may be covered partially or wholly by floodwater from the one hundred-year flood.)
Provisions for private facilities and facilities owned by the State or a political subdivision located in 100-year floodplains	PA	R18-8-264	Arizona incorporates 40 CFR 264.18(b) by reference which requires facilities located in a 100-year floodplain to be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood unless the facility owner/operator can demonstrate that certain procedures are in effect that will prevent washout or that no adverse effects will result if washout occurs.
AIR			
No provisions found.			
DISTANCE LIMITATIONS/BUFFER ZONES			
Buffer zones for hazardous waste facilities at the proposed State site	PDP ³	<i>[49-902 B]</i>	At the proposed State site, buffer zones consisting of at least one-half mile surrounding the site acquired, shall be leased by the Director.
Restrictions for high groundwater areas for facilities at the proposed State site	PDP ³	<i>[49-902 E 3]</i>	No new hazardous waste disposal facility at the proposed State site may be located within an area where up to one mile from the perimeter of the site the depth to the groundwater level is less than 150 feet.

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Restrictions for areas without sufficient room for facility maintenance at the proposed State site	PDP ³	<i>[49-902 E 4]</i>	No new hazardous waste disposal facilities at the proposed State site may be located within an area where the surrounding land use for one square mile may impede proper long-term site maintenance.
Public easements for hazardous waste facilities at the proposed State site	PDP ³	<i>[49-902 C]</i>	Public easements necessary for ingress or egress to the acquired site shall be obtained by the Director.
Placement near fault restricted for private facilities and facilities owned by the State or a political subdivision	PA	R18-8-264	Arizona incorporates 40 CFR 264.18(a)(1) by reference which requires that new hazardous waste facilities must not be located within 61 meters of a fault which has displacement in Holocene time.
OTHER HUMAN HEALTH CONSIDERATIONS			
Location restrictions for hazardous waste facilities at the proposed State site	PDP ³	<i>[49-902 E 2]</i>	No new hazardous waste disposal facilities at the proposed State site, may be located within an area so close to public roads, residences, public and private water wells and water supplies as to constitute a threat to human health or the environment.
ENVIRONMENTALLY SENSITIVE AREAS			
No provisions found.			
Endangered Species			
No provisions found.			
Critical Habitats			
No provisions found.			

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Wetlands			
No provisions found.			
Wild, Scenic or Recreational Areas			
No provisions found.			
Approved Farmland Preservation Areas			
No provisions found.			
Other			
No provisions found.			

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ENVIRONMENTAL JUSTICE CONSIDERATIONS			
No provisions found.			
ECONOMIC CRITERIA			
No provisions found.			
OTHER CRITERIA			
No provisions found.			

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